



# OFFICE OF ADVOCACY **FACTSHEET**

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## ***National Marine Fisheries Service Seeks Comment on Designation of Critical Habitat for Endangered Species***

On December 10 and 14, 2004, the National Marine Fisheries Service (NMFS) published two notices of proposed rulemaking to designate critical habitat for Pacific salmon and steelhead. NMFS is seeking comments on the impacts these rules could have on small businesses, and whether NMFS should exclude specific areas in the final designation. In addition to commenting to NMFS, small businesses are encouraged to contact the Office of Advocacy to share information on the potential costs of compliance and recommended areas for exclusion so that Advocacy can reflect small business impacts in its comments to NMFS. Information about the proposed critical habitat designations, along with analysis of their projected impacts, is available online at:

<http://www.nwr.noaa.gov/1salmon/salmesa/crithab/CHsite.htm>.

- There are two notices of proposed rulemaking. One notice proposes to designate approximately 27,000 miles of streams and rivers and 2,000 miles of nearshore marine areas in Washington, Oregon, and Idaho as habitat for Pacific salmon and steelhead species, with the second notice proposing more than 11,000 miles of streams and rivers and 900 miles of bay shore areas in California. NMFS estimates these rules could cost a total of up to \$5,700,000 over 20 years, or more than \$374 million per year.
- The Endangered Species Act (ESA) requires NMFS to designate “critical habitat” for all species that have been listed as “endangered” or “threatened.” Once land is designated as critical habitat, land users are prohibited from “adverse modification” of that land by destroying the features that make it a species’ habitat.
- The ESA allows NMFS to exclude any area of habitat where the economic costs outweigh the biological benefits of inclusion, provided such exclusion would not result in the species’ extinction. NMFS is seeking comments on whether specific areas should be included within the final designation of critical habitat, supported by estimates of the costs of these areas’ inclusion.
- Once critical habitat is designated, land users who require any federal permits or use land pursuant to a contract with the federal government will be required to consult with NMFS to determine whether they are adversely modifying designated critical habitat, and if necessary, mitigate the impacts of their actions by buying land for conservation or reducing the amount of land used. Usually, these businesses include home builders and developers, farmers using irrigation water, water irrigation districts, miners, aquaculture operations, and ranchers.

The deadline for comments on the California designation is February 8, 2005, and the deadline for the Pacific Northwest designation is February 14, 2005. A link to the NMFS notices and information on how to submit your comments is available on Advocacy’s Regulatory Alerts page at [http://www.sba.gov/advo/laws/law\\_regalerts.html](http://www.sba.gov/advo/laws/law_regalerts.html). For more information on the Office of Advocacy’s efforts on this and other rulemakings, contact Michael See at [Michael.See@sba.gov](mailto:Michael.See@sba.gov) or (202) 619-0312.